

HOUSE BILL 1227

N1, C4

4lr2869
CF SB 1015

By: **Delegates Holmes and Arentz**

Introduced and read first time: February 8, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums – Mandatory Insurance Coverage – Detached Units**

3 FOR the purpose of altering the types of elements and units for which a council of unit
4 owners is required to maintain certain property insurance; limiting instances when
5 an owner of a detached unit within a condominium is required to carry homeowners
6 insurance on the entirety of the unit; and generally relating to mandatory insurance
7 coverage for condominiums.

8 BY repealing and reenacting, with amendments,

9 Article – Real Property

10 Section 11–114

11 Annotated Code of Maryland

12 (2023 Replacement Volume)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – Real Property**

16 11–114.

17 (a) Commencing not later than the time of the first conveyance of a unit to a
18 person other than the developer, the council of unit owners shall maintain, to the extent
19 reasonably available:

20 (1) Property insurance against risks of direct physical loss commonly
21 insured against in amounts determined by the council of unit owners, but not less than any
22 amounts specified in the declaration or bylaws:

23 (i) For attached [or] UNITS, multifamily dwelling units, OR

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **DETACHED UNITS LOCATED WITHIN A CONDOMINIUM NOT COMPOSED ENTIRELY OF**
2 **SIMILAR DETACHED UNITS**, on the common elements and units, exclusive of
3 improvements and betterments installed in units by unit owners other than the developer;
4 and

5 (ii) For detached units **LOCATED WITHIN A CONDOMINIUM**
6 **COMPOSED ENTIRELY OF SIMILAR DETACHED UNITS**, on the common elements; and

7 (2) Comprehensive general liability insurance, including medical
8 payments insurance, in an amount determined by the council of unit owners, but not less
9 than any amount specified in the declaration or bylaws, covering occurrences commonly
10 insured against for death, bodily injury, and property damage arising out of or in connection
11 with the use, ownership, or maintenance of the common elements.

12 (b) The council of unit owners shall give notice to all unit owners of the
13 termination of any insurance policy within 10 days of termination. The declaration or
14 bylaws may require the council of unit owners to carry any other insurance, and the council
15 of unit owners in any event may carry any other insurance it deems appropriate to protect
16 the council of unit owners or the unit owners.

17 (c) Insurance policies carried pursuant to subsection (a) of this section shall
18 provide that:

19 (1) Subject to the applicable coverage specified under subsection (a)(1) of
20 this section, each unit owner is an insured person under the policy with respect to liability
21 arising out of the unit owner's ownership of an undivided interest in the common elements
22 or membership in the council of unit owners for property and casualty losses to the common
23 elements and the units, exclusive of improvements and betterments installed in the units
24 by unit owners other than the developer;

25 (2) The insurer waives its right to subrogation under the policy against any
26 unit owner of the condominium or members of his household;

27 (3) An act or omission by any unit owner, unless acting within the scope of
28 his authority on behalf of the council of unit owners, does not void the policy and is not a
29 condition to recovery under the policy; and

30 (4) If, at the time of a loss under the policy, there is other insurance in the
31 name of a unit owner covering the same property covered by the policy, the policy is primary
32 insurance not contributing with the other insurance.

33 (d) (1) Subject to the applicable coverage specified under subsection (a)(1) of
34 this section, any loss covered by the property policy shall be adjusted with the council of
35 unit owners, but the insurance proceeds for that loss shall be payable to any insurance
36 trustee designated for that purpose, or otherwise to the council of unit owners, and not to
37 any mortgagee.

(2) The insurance trustee or the council of unit owners shall hold any insurance proceeds in trust for unit owners and lien holders as their interests may appear.

(3) (i) Subject to the provisions of subsection (g) of this section, the proceeds shall be disbursed first for the repair or restoration of the damaged common elements and, for condominiums with attached [or] **UNITS**, multifamily units, **OR DETACHED UNITS LOCATED WITHIN A CONDOMINIUM NOT COMPOSED ENTIRELY OF SIMILAR DETACHED UNITS** that must maintain a property insurance policy on the units, the damaged units.

(ii) Unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless:

1. There is a surplus of proceeds after the common elements and, for condominiums with attached [or] **UNITS**, multifamily units, **OR DETACHED UNITS LOCATED WITHIN A CONDOMINIUM NOT COMPOSED ENTIRELY OF SIMILAR DETACHED UNITS** that must maintain a property insurance policy on the units, the units have been completely repaired or restored; or

2. The condominium is terminated.

(e) (1) An insurance policy issued to the council of unit owners does not prevent a unit owner from obtaining insurance for his own benefit.

(2) An owner of a residential, detached unit, **LOCATED WITHIN A CONDOMINIUM COMPOSED ENTIRELY OF SIMILAR DETACHED UNITS**, shall carry homeowners insurance coverage on the entirety of the unit.

(f) (1) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the council of unit owners and, upon request, to any unit owner, mortgagee, or beneficiary under a deed of trust.

(2) An insurer may cancel an insurance policy issued under this section in accordance with § 27-603 of the Insurance Article.

(g) (1) Subject to the applicable coverage specified under subsection (a)(1) of this section, any portion of the common elements and the units, exclusive of improvements and betterments installed in the units by unit owners other than the developer, damaged or destroyed shall be repaired or replaced promptly by the council of unit owners unless:

(i) The condominium is terminated;

(ii) Repair or replacement would be illegal under any State or local health or safety statute or ordinance; or

(iii) 80 percent of the unit owners, including every owner of a unit or

1 assigned limited common element which will not be rebuilt, vote not to rebuild.

2 (2) (i) 1. The cost of repair or replacement in excess of insurance
3 proceeds and reserves is a common expense.

4 2. A property insurance deductible is not a cost of repair or
5 replacement in excess of insurance proceeds.

6 (ii) If the cause of any damage to or destruction of any portion of the
7 condominium originates from the common elements or an event outside of the condominium
8 units and common elements, the council of unit owners' property insurance deductible is a
9 common expense.

10 (iii) 1. If the cause of any damage to or destruction of any portion
11 of the condominium originates from a unit, the owner of the unit where the cause of the
12 damage or destruction originated is responsible for the council of unit owners' property
13 insurance deductible not to exceed \$10,000.

14 2. The council of unit owners shall inform each unit owner
15 annually in writing of:

16 A. The unit owner's responsibility for the council of unit
17 owners' property insurance deductible; and

18 B. The amount of the deductible.

19 3. The council of unit owners' property insurance deductible
20 amount exceeding the \$10,000 responsibility of the unit owner is a common expense.

21 (iv) In the same manner as provided under § 11–110 of this title, the
22 council of unit owners may make an annual assessment against the unit owner responsible
23 under subparagraph (iii) of this paragraph.

24 (3) If the damaged or destroyed portion of the condominium is not repaired
25 or replaced:

26 (i) The insurance proceeds attributable to the damaged common
27 elements shall be used to restore the damaged area to a condition compatible with the
28 remainder of the condominium;

29 (ii) The insurance proceeds attributable to units and limited
30 common elements which are not rebuilt shall be distributed to the owners of those units
31 and the owners of the units to which those limited common elements were assigned; and

32 (iii) The remainder of the proceeds shall be distributed to all the unit
33 owners in proportion to their percentage interest in the common elements.

1 (4) (i) If the unit owners vote not to rebuild any unit, that unit's entire
2 common element interest, votes in the council of unit owners, and common expense liability
3 are automatically reallocated upon the vote as if the unit had been condemned under §
4 11–112 of this title, and the council of unit owners promptly shall prepare, execute, and
5 record an amendment to the declaration reflecting the reallocations.

6 (ii) Notwithstanding the provisions of this subsection, § 11–123 of
7 this title governs the distribution of insurance proceeds if the condominium is terminated.

8 (h) The council of unit owners shall maintain and make available for inspection a
9 copy of all insurance policies maintained by the council of unit owners.

10 (i) The provisions of this section do not apply to a condominium all of whose units
11 are intended for nonresidential use.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2024.